UNITED STATES PATENT AND TRADEMARK OFFICE

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10/536,876	02/06/2006	Yasuhiro Nose	273032US8 PCT	8328

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EXAMINER
NGUYEN, DUSTIN

ART UNIT	PAPER NUMBER
2454	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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	Application No.	Applicant(s)
	10/536,876	NOSE ET AL.
Office Action Summary	Examiner	Art Unit	
	DUSTIN NGUYEN	2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _09 September 2009_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-23_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-23_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is responsive to the Amendment filed 09/09/2009.

Claim Objections

Claim 5 is objected to because of the following informalities: "reservation flames"

should be corrected as "reservation frames". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Kusaba et al. (US Patent No 6,510,556), hereafter Kusaba in view of Jennings et al.
(US Patent No 7,191,244), hereafter Jennings.

Regarding **claim 1**, Kusaba discloses:

the communication terminal [12, Figure 2] comprising comprises :

reservation candidate acquiring means for transmitting, to the server, a

transmission request for transmission of reservation candidate information

containing time information indicating at least a start time corresponding to each

of a plurality of candidate time zones to which a reservation for download of the

data can be allocated [i.e. the personal computer transmits a schedule table

request and requests the scheduler to send the contents of the schedule table,

wherein the schedule table includes the time table] [301, Figure 3; Figures 4A-

4C; and col 4, lines 25-56], and for acquiring the reservation candidate

information transmitted in response to the request by the server [i.e. the

scheduler 105 on the server reads out the schedule table and returns to the

personal computer] [302, Figure 3; and col 4, lines 28-32];

reservation selecting means for transmitting to the server reservation choice

information containing, as reservation time information, the time information

selected, based on the reservation candidate information acquired by the

reservation candidate acquiring means, and for storing a start time corresponding

with a selected one of the plurality of time zones, indicated by the reservation

time information, as an initiation time of the download [i.e. the view clicks the

reserve button, and the client software transmits the inputted reservation

contents to the scheduler, the scheduler accepts it and writes the reservation

contents into the schedule table 104] [303-305, Figure 3; and col 5, lines 22-58

];

data receiving means for receiving the data transmitted by the server in

accordance with the transmission request for transmission of the data transmitted

by the data request transmitting means [i.e. the viewer receives the desired

broadcasting] [310, 311, Figure 3; and col 5, lines 59-col 6, lines 9];

the server [11, Figure 2] comprising:

data storing means for storing the data [102, Figure 1];

reservation information storing means for storing a reservation table in which the reservation for the download is to be allocated to reservation frames within a maximum number at each time to permit simultaneous execution of the download, set based on a load state at each time preliminarily measured [i.e. schedule table 104 to register a distribution schedule have been stored in a memory 110] [104, Figure 1; and col 3, lines 10-27];

reservation candidate generating means for, in response to the transmission request for the transmission of the reservation candidate information transmitted by the communication terminal, determining the plurality of time zones as candidates available for the download of the data, based on the reservation table stored in the reservation information storing means, for generating the reservation candidate information containing the time information about each of the plurality of the time zones, and for transmitting the reservation candidate information to the communication terminal [i.e. the scheduler 105 discriminates whether the received reservation contents can be accepted or not] [303-305, Figure 3; and col 5, lines 22-58];

reservation registering means for receiving the reservation choice information

transmitted by the communication terminal, and for registering in the reservation

table the reservation for the download at one of the time zones corresponding to

the reservation time information included in the reservation choice information [

i.e. update the schedule table 104] [312, 313, Figure 3; col 5, lines 57-58; and

col 6, lines 10-28].

Kusaba does not appear to explicitly disclose:

the terminal comprising:

data request transmitting means for transmitting a transmission request for

transmission of the data to the server, at the initiation time stored by the

reservation selecting means; and

the server comprising

data transmitting means for transmitting to the communication terminal the data

stored in the data storing means, in response to the transmission request for

transmission of the data transmitted by the communication terminal.

Jennings discloses

the terminal comprising:

data request transmitting means for transmitting a transmission request for

transmission of the data to the server, at the initiation time stored by the

reservation selecting means [i.e. the viewer initiates a session or connection with

the MMS using the reservation number] [Abstract; and col 17, lines 20-58]; and

the server comprising

data transmitting means for transmitting to the communication terminal the data

stored in the data storing means, in response to the transmission request for

transmission of the data transmitted by the communication terminal [i.e. the

MMS streams the media to the viewer if the reservation data from the viewer

matches the reservation data from the NRP] [Abstract; and col 17, lines 20-58].

It would have been obvious to one of ordinary skill in the art at the time of the

invention to combine the reservation system of Kusada with the general concept

of client initiation of transmission as taught by Jennings in order to provide

management and administration of media streaming [Jennings, col 1, lines 20-

21].

Regarding **claim 2**, kusaba discloses:

The download system according to Claim 1, wherein, in generating the

reservation candidate information, the reservation candidate selecting means of

the server temporarily allocates in the reservation table, reservations for the

download corresponding to the time information included in the reservation

candidate information, together with information to identify the communication

terminal having transmitted the transmission request for transmission of the

reservation candidate information, and wherein the reservation registering means

adopts the reservation in the time zone corresponding to the reservation time

information included in the reservation choice information transmitted by the

communication terminal, among the reservations temporarily allocated together

with the information to identify the communication terminal, in the reservation

table, and cancels the other reservations temporarily allocated together with the

information to identify the communication terminal, in the reservation table [i.e.

the scheduler writes the reservation contents into the schedule table after the

scheduler accepts the received reservation contents request from the client] [

313, Figure 3; and col 5, lines 32-58].

Regarding **claim 3**, Kusaba discloses:

The download system according to Claim 1, wherein, in generating the

reservation candidate information, the reservation candidate generating means of

the server generates the reservation candidate information preferentially

including the time information about time zones with a large number of said

reservation frames to which the reservation for the download is not allocated,

based on the reservation table [i.e. display time frame which already has been

reserved] [Figures 4C-4F; and col 4, lines 25-56].

Regarding **claim 4**, Kusaba discloses:

The download system according to Claim 1, wherein the communication terminal

further comprises available range acquiring means for transmitting to the server a

transmission request for transmission of available range information containing

information about presence/absence of a time zone available for the reservation

for the download in each of second predetermined periods obtained by

subdividing a first predetermined period, and for receiving the available range

information transmitted from the server, wherein the server further comprises

available range generating means for generating the available range information

in accordance with the transmission request for transmission of the available

range information transmitted by the communication terminal, and for transmitting

the available range information to the communication terminal, wherein the

reservation candidate acquiring means transmits to the server the transmission

request for transmission of the reservation candidate information containing the

information about the second predetermined period selected based on the

available range information received by the available range acquiring means, and

wherein the reservation candidate generating means generates the reservation

candidate information containing the time information about the plurality of time

zones available for the reservation for the download in the second predetermined

period, based on the information about the second predetermined period

included in the transmission request for transmission of the reservation candidate

information transmitted by the communication terminal, and transmits the

reservation candidate information to the communication terminal [i.e. display

range of available/unavailable time] [Figures 4C-4F; and col 4, lines 6-col 5,

lines 22].

Regarding **claim 5**, Kusaba discloses:

The download system according to Claim 4, wherein the available range

information generated by the available range generating means contains level

information indicating a number of said reservation flames to which the

reservation for the download is not allocated, in each of the second

predetermined periods [i.e. display range of available/unavailable time] [

Figures 4C-4F; and col 4, lines 6-col 5, lines 22].

Regarding **claim 6**, Kusaba discloses:

The download system according to Claim 4, wherein the available range

information generated by the available range generating means is comprised of a

list indicating binary values of the information about the presence/absence of a

time zone available for the reservation for the download in each of the second

predetermined periods [i.e. display range of available/unavailable time] [Figures

4C-4F; and col 4, lines 6-col 5, lines 22].

Regarding **claim 7**, Kusaba discloses:

The download system according to Claim 4, wherein the available range

information generated by the available range generating means is comprised of a

list resulting from further text conversion of a list indicating binary values of the
information about the presence/absence of a time zone available for the
reservation for the download in each of the second predetermined periods [i.e.
display range of available/unavailable time] [Figures 4C-4F; and col 4, lines 6-
col 5, lines 22].

Claims 8-23 present limitations similar to those in claims 1-7 and thus are
rejected for similar reasons.

Response to Arguments

Applicant's arguments with respect to claims 1-23 have been considered but are
moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Dustin Nguyen whose telephone number is 571-272-
3971. The examiner can normally be reached on Monday through Friday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Nathan Flynn can be reached on (571) 272-1915. The fax phone number
for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DUSTIN NGUYEN/
Primary Examiner, Art Unit 2454